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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,629	07/30/2003	Giovanni De Martin	37976/GM/ps	9127

7590 10/06/2004

MODIANO & ASSOCIATI
Via Meravigli, 16
MILANO, 20123
ITALY

EXAMINER

GARRETT, ERIKA P

ART UNIT PAPER NUMBER

3636

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,629

Applicant(s)

DE MARTIN, GIOVANNI

Examiner

Erika Garrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 18-26 is/are rejected.
- 7) ☒ Claim(s) 10-17, 25 and 27-30 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/30/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1-30, the phrase "box-like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim 1 recites the limitation "said single plate" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 and 26 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Ito (6,033,020). Ito discloses the use of a mechanical device comprising: a box body (28); an intermediate element (6); oscillation compensation

means (see abstract, columns 1,6) that interact with said single plate to compensate oscillation thereof; a single plate (3) having a first seat, that is connectable under a chair having a central column (25); an actuation rod (5) transversely connectable with said single plate for combined rotation and translational motion of said intermediate element that is pivoted inside said box body partially accommodated at said first seat formed below said single plate, said box body being connectable to said central column and interacting with said oscillation compensation means. In regards to claim 2, further comprising wherein a bayonet-type coupling is further provided between said oscillation compensation means and said single plate. In regards to claim 3, wherein said first seat is shaped complementarily to said box body and is formed by a ridge (11) that protrudes, in use, perimetrically downward from said single plate. In regards to claim 4, wherein said ridge is substantially oval in plan view, and triangular with rounded corners in transverse cross- section. In regards to claim 5, wherein said box body comprises a base that is substantially flat and oval and a hollow connecting stem for connection to said central column, said connecting stem protruding, in use, downwardly in an off-center position of said single plate, see figure 1. In regards to claim 6, further comprising a lateral edge that protrudes perimetrically vertically from said base of said box-like body and is directed, in use, upwardly; two first supporting holes (fig.11) formed transversely to said edge; and a transverse pivot mounted at said first supporting hole for mutually pivoting said box-like body and said single plate. In regards to claim 7, wherein said two first holes face each other and are formed in said lateral edge along an axis that is perpendicular to an axis of said stem and to a longitudinal central axis of

said box-like body, and are provided with two supporting bushes for said transverse pivot. In regards to claim 8, comprising pairs of second holes (13) formed in said ridge of said single plate, along a common axis with said pivot, the free ends of said pivot protruding externally to said bushes, so as to be accommodated in said pairs of second holes. In regards to claim 9, wherein the actuation rod (5) comprises a first portion and a second portion, which are substantially straight, lie on a same axis, and are connected to each other by a third C- shaped portion, said third portion being accommodated inside said box-like body, so as to interact with said intermediate element (6), see figure 11. In regards to claim 26, wherein said box body and said single plate is press shaped in a single sheet of metal.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ito (6,033,020) in view of Liu (5,762,399). Ito shows the use of all the claimed invention but fails to show the use of a first and second half-shell. Liu teaches the use of a first half-shell (94) and a second half-shell (93). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the compensation means with a first and

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second half-shell as taught by Liu, in order to rock the seat relative to the adjusting base.

Allowable Subject Matter

Claims 10-17,25 and 27-30 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to a mechanical device: U.S Pat. No. 4025020, 4909472, US006276755B1, US006116688A, US006213552B1, US006139103A, US006131998A, US006523897B2, US005280998A, US005294178A, US006120096A, and US006139103A.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika Garrett whose telephone number is 703-605-0758. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EG
September 27, 2004


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600